

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HAROLD TYLER LOPA,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

No. 2:22-cv-01609-DAD-JDP (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THIS ACTION DUE TO PLAINTIFF'S
FAILURE TO PROSECUTE AND FAILURE
TO OBEY A COURT ORDER

(Doc. No. 9)

Plaintiff Harold Tyler Lopa is a civil detainee proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 20, 2023, the assigned magistrate judge issued findings and recommendations recommending that this action be dismissed, without prejudice, due to plaintiff's failure to prosecute and failure to obey a court order. (Doc. No. 9.) Specifically, because plaintiff had not filed an *in forma pauperis* affidavit or paid the \$350.00 filing fee or the \$52.00 administrative fee in connection with this action, on October 4, 2022, the magistrate judge issued an order requiring plaintiff to submit either an application to proceed *in forma pauperis* or the required \$402.00 of fees within thirty (30) days of that order. (Doc. No. 7.) Plaintiff was warned that his failure to

1 comply with that order may result in the dismissal of this action. (*Id.* at 2.) The service copy of
2 the court's order dated October 4, 2022, which was mailed to plaintiff at his address of record,
3 was returned to the court by the U.S. Postal Service as undeliverable. Plaintiff was therefore
4 required by Local Rule 183 to file a notice of his change of address with the court no later than
5 December 27, 2022. To date, plaintiff has not filed a notice of his change of address or otherwise
6 communicated with the court.

7 Accordingly, on January 20, 2023, the magistrate judge issued the pending findings and
8 recommendations recommending dismissal of this action due to plaintiff's failure to prosecute
9 and failure to obey a court order. (Doc. No. 9.) Those pending findings and recommendations
10 were served on plaintiff and contained notice that any objections thereto were to be filed within
11 fourteen (14) days after service. (*Id.* at 1.) To date, plaintiff has not filed any objections and the
12 time in which to do so has passed.¹

13 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
14 *de novo* review of the case. Having carefully reviewed the entire file, the court finds the findings
15 and recommendations to be supported by the record and by proper analysis.

16 Accordingly,

17 1. The findings and recommendations issued on January 20, 2023 (Doc. No. 9) are
18 adopted in full;

19 2. This action is dismissed without prejudice due to plaintiff's failure to prosecute
20 this action and failure to comply with a court order; and

21 3. The Clerk of the Court is directed to close this case.

22 IT IS SO ORDERED.

23 Dated: April 6, 2023


24

UNITED STATES DISTRICT JUDGE

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26
27 ¹ The service copy of the findings and recommendations, which was mailed to petitioner at his
28 address of record, was again returned to the court as "undeliverable."